

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

FEB 17 2004

PER-2-LER

E
Customs Inspector
New York/ Newark Area

Dear Mr. **E**

This letter is to notify you of my decision to terminate you from your position of Customs Inspector, GS-1890-07, and from U.S. Customs and Border Protection (CBP), effective February **E**, 2004. You were hired as a Customs Inspector on a career-conditional appointment on March **E**, 2003 subject to a one-year probationary period. This probationary period is the final and highly significant step in determining whether an employee should be retained in his/her position. It provides the final and indispensable test of an appointee's actual performance and conduct. When performance or conduct deficiencies are observed, 5 C.F.R. § 315.804 provides that a probationary employee may be terminated at any time prior to the completion of the probationary period. The specific facts and circumstances which led to the decision to terminate your employment are as follows:

On October **E**, 2003, you were scheduled to work an overtime assignment from 0400-0600 hours. At approximately 0415 hours, you contacted Supervisory Customs Inspector (SCI) **E** and informed her that you had overslept. SCI **E** had to dispatch another Inspector to cover the flight.

On November **E**, 2003, you were scheduled to work an overtime assignment from 0400-0600 hours. You called in and spoke to a supervisor at approximately 0530 hours and stated that you had overslept.

On January **E**, 2004, you failed to report to your scheduled overtime assignment. Subsequently, you submitted a buckslip which indicated that you had called in for your orders but could not reach a supervisor. You indicated that you spoke to a Senior Inspector who advised you that you were not scheduled for overtime. The overtime policy states that "Employees calling to notify management that they will not be able to report to an overtime assignment MUST speak with a supervisor."

Vigilance ★ Service ★ Integrity



On January █, 2004, SCI █ counseled you regarding the missed overtime assignments noted above. SCI █ went over the overtime policy and gave you a copy of the current policy. Despite the counseling noted above, you missed two additional overtime assignments. On January █, 2004, you were scheduled for overtime at 0400 hours. You did not contact a supervisor until 0720 hours, at which time you indicated that you were sick. Although you did eventually provide documentation that you had visited a doctor, your failure to contact a supervisor in a timely manner on January █ was an unacceptable deviation from proper procedures. On January █, 2004, you again failed to report to your scheduled overtime assignment, claiming that you were unable to start your car. Eventually, you were able to get your car started and reported to work for your regular shift.

As a Customs Inspector, overtime is a condition of employment. Therefore, overtime assignments must be adhered to in the same manner in which you would proceed for your regular work schedule. In order to accomplish its mission, CBP must be able to trust and depend on its employees to act in a responsible manner. All employees are expected to adhere to overtime policy and follow instructions given to them by superiors. The incidents noted above all demonstrate your failure to follow policy and proper procedures. Accordingly, based on my consideration of the foregoing evidence, it is my conclusion that you have failed to demonstrate the conduct required for continued employment with CBP.

Therefore, in accordance with 5 C.F.R. § 315.804, your employment with CBP will be terminated at the close of business on Friday, February █, 2004. An exception to Standard Form 50, the Employee Transcript, documenting your termination, will be forwarded to you at a later date.

Pursuant to 5 C.F.R. § 315.806 (b), you may appeal this termination to the Merit Systems Protection Board (MSPB) only if you believe the action was based on discrimination because of your marital status or for partisan political reasons. If you believe that your termination was based upon discrimination because of race, color, religion, sex or national origin or because of age or handicapping or disabling condition, you may appeal such to the MSPB, but only if such alleged discrimination is raised in addition to allegations of discrimination based upon marital status or partisan politics. Your appeal must be filed in writing no later than 30 days after the effective date of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later. A copy of the relevant Merit Systems Protection Board regulations and appeal form is enclosed. Your appeal must be delivered in person, by facsimile, by mail or by commercial overnight delivery to:

Chief Administrative Judge
Merit Systems Protection Board
26 Federal Plaza, Room 3137A
New York, New York 10278

If you file your appeal by facsimile it should be sent to (212) 264-1417. You may also prepare and file an appeal electronically by using e-Appeal, the Board's Internet filing procedure, at <http://e-appeal.mspb.gov>.

If you feel this action is due to discrimination against you on the basis of race, color, religion, sex, national origin, age or handicap you may also initiate a discrimination complaint by seeking pre-complaint counseling from an EEO Counselor within 45 days of the effective date of this action. If you wish to pursue such an action you should contact Mr. Lenard Angevine at (646) 733-3234.

Please sign, date and return the accompanying copy of this letter so that it may serve as acknowledgement of your receipt of the original.

Sincerely,



Susan T. Mitchell
Director
Field Operations, New York

Enclosures

Acknowledgement of Receipt:



Employee's signature



Date